The amendments were put to vote and carried.

The question that clause 10 as amended forms part of the Bill was put and carried.

The clause was added to the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: Before I move for the third reading of the Bill, I request the Chair to suspend the Standing Order.

PRESIDENT: The Standing Order is suspended.

MR. PUTHUPALLI S. KRISHNA PILLAI: I beg to move that in clause 1 for the figure 111 the figure 1117 be substituted.

MR. A. LAKSHMI NARAYANA AYYAR: I second it.

The amendment was put to vote and carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to move that the Travancore Suppression of Immoral Traffic Bill be passed.

MR. A. LAKSHMI NARAYANA AYYAR: I second it.

The motion was put and carried and the Bill was passed.

THE TRAVANCORE COURT FEES ACT (AMENDMENT) BILL.

MR. PUTHUPALLI S. KRISHHA PILLAI: I beg to move that the Travancore Court Fees Act (Amendment) Bill be read in the Assembly.

MR. A. LAKSHMI NARAYANA AYYAR: I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: I have explained the object of the Bill in the Statement of Objects and Reasons. Honourable members will note that the Court Fees Act is proposed to be amended for two purposes. Under Section 13 (g) applications filed in small cause suits for copies of orders and decrees and other records are exempted from payment of any court fees. Government have been watching the result of this exemption. In very many cases the privilege seems to have been abused by the public. Applications are put in without any intention of further proceeding with them. But nevertheless the office in charge of these matters has to enter these applications in a register kept for the purpose and put up a notice calling upon the parties to produce the copying paper and if the parties fail to do so, the clerk concerned will have to take the book to the Judicial Officer for passing the necessary orders. When a man has not got to pay anything as court fees, it is quite possible that a very large number of such petitions come in. It takes much time of the Court and sometimes results in serious complaints from the public also. If such applications are not affixed with court fee stamps, it is not invariably necessary that they should be presented through the administrative head and signed and certified by him. So it is very easy for the grumbler and the man who is always ready to make a complaint to say that his petition has been destroyed or that the clerk did not attend to the matter because he is negligent or because he has not been paid something. When responsible officers make enquiries into such complaints it is not possible to find fault with them. So after careful consideration Government have come to the conclusion that for the work done by the courts, just as in other cases, a small court fee of 2 chs. may be

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[Mr. Puthupalli S. Krishna Pillai.]

levied. I am quite sure that the House would certainly agree with the idea underlying the proposal. A small amendment is proposed to be made on account of this in the case of the Village Panchayat Courts Act also. I would make a separate motion with regard to that. I move that the Bill be read in the Assembly.

MR. A. LAKSHMI NARAYANA AYYAR: I second it.

MR. E. SUBRAMONIA AIYAR: I very much regret that I have to oppose this bill. It has been pointed out by the learned Legal Remembrancer that after all it is two chuckrams. I also put the same question. After all it is two chuckrams. Where is the necessity for imposing that fee on the poor people? In fact this concession was granted only in the case of non-appealable cases and that is the poor man's cases.

MR. PUTHUPALLI S. KRISHNA PILLAI: Are not rich men instituting small cause cases? Hundi merchants and traders, do they not file a very large number of small cause cases?

MR. E. SUBRAMONIA AIYAR: In spite of the interruption of my friend, I still persist in saying that so far as small cause cases are concerned, though the creditor will be the rich man, the debtor will be the poor man. I do not forget the fact that justice is purchased for money. Even if you have to present a complaint you have to pay for it and court fees is the payment that you make in order that the Court may do justice between party and party. But though the Legislature has got the power of enabling courts to levy fees, I think it is not right to arm them with the power of levying fees on such petitions. In most cases these petitions will be in connection with non-appealable cases. The cases contemplated are for copies of judgments, decrees, orders or records in suits or proceedings. The financial aspect of the matter so far as the poor parties are concerned might create some hardship. Why is it necessary? Is there any real evil? How many applications for copies of judgments and decrees are made in this City?

Then with respect to the other amendment. It is sought to impose a fee of two chuckrams for certificates presented by Vakils. The purpose of this amendment will be very limited. So far as my knowledge goes, there is hardly any case for this amendment.

MR. C. JEBAMONY NADAR: I too oppose the Bill. The honourable member, the mover of the Bill, has said that this Court Fees Act amendment is not intended for the purpose of taxation. But I see a serious charge is made against the staff of the department responsible for recording the applications. In the statement of objects and reasons it is stated that complaints have been received that certificates for payment of fees filed by Vakils and Advocates are often not brought into the registers maintained for the purpose and therefore a practice has sprung up among the members of the legal profession of affixing two chuckrams court fee stamps to such certificates as a matter of caution. That shows that otherwise Vakil's fee certificates are thrown away. This proves the irresponsibility on the part of the clerks concerned. This may be due to the fact that these Government servants do not realise their responsibility. Now when we are told that papers are missing in Courts, that is a very serious thing. For there are other

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most important documents, *viz.*, affidavits, original title deeds etc., which require no court fee stamp. They are very valuable documents. So if a paper is being lost because it is not stamped, it applies to all other unstamped papers including original documents, books of accounts etc., I would ask my learned friend the Legal Remembrancer to enlighten me as to any action taken against any clerk or other persons who have been found to be irresponsible in this way. In the matter of levying court fees it is an accepted principle to levy a fee only when a prayer is asked for in the particular petition. In the case of Vakil's fee, there is no prayer but only an intimation to Court that the Vakil's fee has been received because the right to get Vakil's fee usually arises out of the judgment already passed by court. In the case of an original suit when the court orders that the successful party is entitled to costs the party is legitimately entitled to have the Vakil's fee included in the decree without any further orders. So also in a small cause suit, provision is made in judgment. Thus in a Vakil's Fee certificate there is no prayer on which the court should pass any order. Automatically therefore, when the Vakil's fee certificate is presented the court has to accept it. Therefore there is no principle in levying court fees on such documents. Further, if the clerks have been found not doing their duty then they are not fit for the post. So instead of taking them to task we are assessing those who would act in accordance with law. By this imposition we are, as it were, punishing the law-abiding citizens to pay the law breaker.

Regarding the applications presented in small causes court, I wish to bring to the notice of the House one aspect. In the matter of court fees there is no difference between an original suit and a small cause suit. In the original suit there is the usual procedure *viz.*, recording of evidence in full, framing of issues and reasons for decisions. In the case of small causes suits, evidence need not be recorded in full and no appeal lies. The court is not bound to give in detail any reason for its findings. Perhaps, the difference in the labour involved in both the classes of suits, though the same rate of Court fees is realised on the value of suits, is one of the reasons why no fee is levied on petitions in small causes suits. I am not convinced when the honourable official member has said that applications filed in such cases are without good faith. Applications would be generally for copies of notes of evidence and copies of decrees. The parties have to engage a petition writer for writing the petitions because most of the litigants are illiterate and have to come from miles away and thus have to pay a fairly heavy bill for presenting a petition. So in such cases it cannot be said they are abusing their privilege in any manner if they do not produce stamp sheets within time and in fact that is only due to the poverty of the litigants. Under such circumstances it will be very hard to tax the poor litigants any further.

My honourable friend the official mover pointed out that papers are not safely kept in courts of law because they are not stamped, however valuable they might be to the parties. The very same thing may happen to stamped petitions. Then it will be still more serious. So I would submit that the principles on which this Bill is based cannot be supported on any ground.

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MR. KOTTALIL P. ABRAHAM: Sir, I do not think it necessary to have an amending Bill like this at this time. It is not the case of the honourable member who brought the Bill that it is meant for the purpose of augmenting the Government revenue; because two chuckrams admittedly are but a trivial sum. The point we have to bear in mind is that the original law relating to the court fees specifically exempted cases covered by this Bill and should we at this stage, without sufficient necessity, introduce an amendment bill and cancel that exemption? It is said that the public are abusing their privileges of using unstamped applications. As Mr. Jebamony Nadar stated these petitions are put in with the help of document writers and vakil's clerks who have certainly to be paid. If in some cases, the applicants fail to proceed with the applications, it is not because of their negligence or carelessness, but it is really on account of their other unavoidable and insurmountable difficulties. So on that score the amendment cannot be supported. Another reason urged is that sometimes petitioners themselves stamp their applications though unnecessarily. If it is a fact, that affords no ground for making it compulsory on others who put in such applications without stamps. Those who file applications using unnecessary stamps do so only as a precautionary method just to ensure that the applications are by no means lost. Further the number of applications coming under this class is not large or too many. Moreover, it is not a sound principle to penalise the litigants by such additional court fees for the carelessness or the corruption of the ministerial staff or for the lack of efficient control over them by the authority concerned.

With regard to Vakils' fee certificates, it is sought by this Bill to affix stamps to them to ensure that they are properly entered in the decree. Even there, if such certificates are found missing, there is already a remedy prescribed by means of special applications to rectify those cases and to make proper entries. On that score also there is no difficulty for the litigant public. Thus the bill is in no way beneficial or necessary for the people. On these considerations I submit that an amendment Bill like this is not necessary now.

MR. P. NARAYANA PILLAI: I support this Bill. Apart from the reasons advanced by the mover, there are other reasons why such an Act should be enforced. In the interest of parties themselves such an Act is highly necessary. It is sometimes found that applications without stamps are found missing in the cases. When such applications are found missing, it will be possible for the parties to prove their case by reference to stamp registers. In the case of Vakil's fees certificates also such things happen, and it is always beneficial to the parties if they will be in a position to prove that their applications were filed. Sometimes it may so happen that the decree contain no provision for the advocate's fee; such cases may happen because petitions may not be found along with the case. So in order to remedy such defects and in the interest of parties, such an Act is highly necessary.

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MR. K. P. KOCHUKORA THARAKAN : ഉദ്യോഗസ്ഥന്മാരുടെ അശ്രദ്ധയോ കൃത്യബോധക്കുറവോനിമിത്തം പാവപ്പെട്ട കക്ഷിക്കാർ രണ്ടു ചക്രം പെനൽറ്റി കൊടുക്കണമെന്നുള്ള വ്യവസ്ഥ വളരെ കഷ്ടമായിരിക്കുന്നു. സാമ്പത്തികാധഃപതനം വളരെ അധികം നടമാടിക്കൊണ്ടിരിക്കുന്ന ഇക്കാലത്തു് രണ്ടു ചക്രമാണെങ്കിൽതന്നെയും സാധുക്കൾക്കു അതു വലിയ ഒരു ഭാരമാണു്. രണ്ടു ചക്രം എറ്റവും കുറഞ്ഞ ഒരു തുകയാണെന്നും സ്റ്റാമ്പൊട്ടിച്ചാൽ കോടതികളിൽ ഹാജരാക്കുന്ന അപേക്ഷക്കടലാസുകൾ കാണാതെവരികയില്ലെന്നും പറയുന്നു. രണ്ടു ചക്രമല്ല എട്ടണതന്നെ വച്ചിരുന്നാലും സ്റ്റാമ്പു വിഴുങ്ങുന്ന ഉദ്യോഗസ്ഥന്മാർ ഇന്നും കോടതികളിൽ അതു അപൂർവ്വമല്ല. അതുകൊണ്ടു അപേക്ഷക്കടലാസ് കാണാതെ വരുന്നതിനെ തടയാൻ വേണ്ടിയാണു് ഈ കുറഞ്ഞ ഫീസ് ഏർപ്പെടുത്തിയിരിക്കുന്നതെന്നു പറയുന്നതിൽ വലിയ അർത്ഥമില്ല.

MR. M. SIVATHANU PILLAI : ഒരു പഞ്ചായത്തുകോടതിയിൽ ഇതുപോലെ സ്റ്റാമ്പു കീറി എടുത്തതിനെപ്പറ്റി ഡിസ്ട്രിക്ട് മജിസ്ട്രേട്ട് അന്വേഷണം നടത്തിവരുന്നതായി മെമ്പർക്കറിയാമോ?

MR. K. P. KOCHUKORA THARAKAN : പഞ്ചായത്തുകോടതിയിൽ അങ്ങനെ നടന്നുണ്ടോ എന്നെനിക്കു നിശ്ചയമില്ല. മുൻസിഫ്കോടതിയിൽ സ്റ്റാമ്പു കീറി എടുത്തതിനെപ്പറ്റി കേസുകൾ ഉണ്ടായിട്ടുണ്ടു്.

MR. M. SIVATHANU PILLAI : ഒരു പഞ്ചായത്തുകോടതിയിലെ ബഞ്ച് മജിസ്ട്രേട്ട് സ്റ്റാമ്പു് എടുത്തതായിട്ടാണു കേസ്. ആ വിവരം മെംബർ അറിഞ്ഞിട്ടുണ്ടോ?

MR. K. P. KOCHUKORA THARAKAN : ബഞ്ച് മജിസ്ട്രേട്ട് സ്റ്റാമ്പെടുത്ത കഥ ഞാൻ അറിഞ്ഞിട്ടില്ല. എന്നാൽ ക്രിമിനൽ കോടതികളിലും സിവിൽ കോടതികളിലും അതു നടക്കാറുണ്ടു്. അവിടത്തെ തുണപോലും കൈക്കൂലി വാങ്ങിക്കുന്നു എന്നുള്ളതു പരസ്യമായ ഒരു രഹസ്യമാണു്. അതുകൊണ്ടു് രണ്ടു ചക്രം സ്റ്റാമ്പൊട്ടിച്ചു് അപേക്ഷ കൊടുത്താലും ഇന്നത്തെ നിലയ്ക്കു് ഒരു വിശേഷവുമില്ല. ഉദ്യോഗസ്ഥന്മാരുടെ അശ്രദ്ധയ്ക്കു പരിഹാരമായിട്ടാണു് ലീഗൽ റിമംബ്രൻസർ ഈ നിയമംകൊണ്ടുവന്നിരിക്കുന്നതെന്നു പറയുന്നു. രണ്ടു ചക്രം ചെലവാക്കാതെ ഈ ഉദ്യോഗസ്ഥന്മാരുടെ അഴിമതികളെ അമർത്തുവാൻ കഴിയുകയില്ലെന്നാണോ ലീഗൽ റിമംബ്രൻസർ പറയുന്നതു?

MR. KOTTALIL P. ABRAHAM : രണ്ടു ചക്രം ക്ലാർക്കന്മാർക്കു കൊടുത്താൽ കക്ഷികൾക്കു കാര്യം സാധിക്കുകയില്ലേ?

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MR. K. P. KOCHUKORA THARAKAN : കച്ചേരിയിലെ ക്ലാക്കന്മാർ കൈക്കൂലിക്കാരാണെന്നു ഞാൻ പറഞ്ഞുകഴിഞ്ഞു. ഈ നിയമം പാസാക്കുകയാണെങ്കിൽ അവർക്കു കൃത്രിമം കാണിക്കുവാനുള്ള സൗകര്യം ഒന്നുകൂടി വർദ്ധിക്കുകയാണു ചെയ്യുന്നതു്.

MR. N. RAMAKRISHNA PILLAI : സിവിൽ കോടതികളിൽ സ്റ്റാമ്പു് ഇളക്കി എടുത്തതായിട്ടു് വല്ല കേസും ഉണ്ടായിട്ടുണ്ടോ?

MR. K. P. KOCHUKORA THARAKAN : അങ്ങനെ ധാരാളം പരാതികൾ ഉണ്ടായിട്ടുള്ളതായി അറിയാം. കേസ് ഉണ്ടായിട്ടുണ്ടോ എന്നു നിശ്ചയമില്ല.

MR. E. SUBRAMONIA AIYAR : ജഡ്ജിയുടെ മേശപ്പുറത്തു വച്ചിരുന്ന കടലാസുപോലും കാണാതെപോയിട്ടുള്ളതായി കേസുകൾ ഉണ്ടായിട്ടില്ലേ?

MR. K. P. KOCHUKORA THARAKAN : പ്രസിദ്ധപ്പെട്ട വട്ടിപ്പണക്കേസിലും ഇത്തരത്തിൽ ഒരു കേസുണ്ടായിട്ടുണ്ടു്. ഒടുവിൽ റോഡിൽ കിടന്നാണു് ആ റിക്കാർഡുകൾ എല്ലാം കണ്ടെടുത്തതു് എന്നു പറയുന്നു.

MR. PUTHUPALLI S. KRISHNA PILLAI : സ്റ്റാമ്പു് ഒട്ടിച്ചുകൊടുത്ത കടലാസുകൾ കാണാതായതിനെപ്പറ്റി കേസുകൾ ഉണ്ടായിട്ടുണ്ടോ?

MR. K. P. KOCHUKORA THARAKAN : സ്റ്റാമ്പും കടലാസും ഒന്നിച്ചു കാണാതായിട്ടുള്ളതായി ധാരാളം പരാതികൾ ഉണ്ടു്.

MR. PUTHUPALLI S. KRISHNA PILLAI : വട്ടിപ്പണക്കേസിൽ അങ്ങനെ ഉണ്ടായി എന്നല്ലാതെ സർവ്വസാധാരണമായി കോടതികളിൽ ഇത്തരം പരാതികൾ ഉണ്ടായിട്ടുണ്ടോ?

MR. K. P. KOCHUKORA THARAKAN : ഇതിനെപ്പറ്റി ശരിയായി അനുഭവപ്പെടാൻ ഞാൻ ഒരു ലായറല്ലാത്തതുകൊണ്ടു് നിവൃത്തിയില്ല. വട്ടിപ്പണക്കേസിലായാലും ഏതു കേസിലായാലും ഇത്തരം പരാതികൾ ഉണ്ടാകാറുണ്ടു്. അതു് കൈക്കൂലിയുടെ ഫലമായാണെന്നു പറയാതെ തരമില്ല അതുകൊണ്ടു് ഈ രണ്ടു ചക്രം സ്റ്റാമ്പൊട്ടിക്കണമെന്നുള്ള നിയമത്തിന്റെ ആവശ്യമില്ലെന്നാണു് എനിക്കു പറയാനുള്ളതു്.

കീഴുദ്യോഗസ്ഥന്മാർ, അതെ ഗവണ്മെന്റു ശമ്പളം വാങ്ങിക്കുന്ന ഉദ്യോഗസ്ഥന്മാർ, കൈക്കൂലി വാങ്ങിച്ചുകൊണ്ടു് അപേക്ഷകൾ മറച്ചുവയ്ക്കുകയൊ കളയുകയൊ ചെയ്യുന്ന ഏർപ്പാടു നിർത്തുവാൻ കക്ഷികളെക്കൊണ്ടു് നികുതി കൊടുപ്പിക്കുന്ന ഏർപ്പാടു വിചിത്രമായിരിക്കുന്നു. മിക്കവാറും കോടതികളിലേയും പ്രിസൈഡിങ്ങു് ഉദ്യോഗസ്ഥന്മാർ ഈവിധം

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ഏർപ്പാടുകളിൽ ഉൾപ്പെട്ടുന്ന കീഴ്ദ്യോഗസ്ഥന്മാരുടെമേൽ കർശനമായി മാതൃകാപരമായി ശിക്ഷണനടപടി നടത്തുന്നതായാൽ ഈവിധം അനീതികരം നമ്മുടെ രാജ്യത്തുനിന്നും വിമാനവേഗത്തിൽ പുറത്തുപോയിക്കൊള്ളും. അങ്ങനെ ചെയ്യാതെ കീഴ്ദ്യോഗസ്ഥന്റെ അനീതിയേയും മേലുദ്യോഗസ്ഥന്റെ അപ്രാപ്തിയേയും ഈ രണ്ടുചക്രം സ്റ്റാമ്പു് ഒട്ടിപ്പിച്ചു നിത്തിക്കൊള്ളാം എന്നു വിചാരിക്കുന്നതു് ഒരിക്കലും ശരിയായിട്ടുള്ളതല്ല. ഇതു് സാധുക്കളായ പ്രജാലക്ഷങ്ങളുടെമേൽ നികുതിഭാരം വർദ്ധിപ്പിക്കുകയും ആണു്. അതിനാൽ ഈ ബില്ലിന്റെ തത്വത്തോടു ഞാൻ എതുക്കുന്നു.

MR. T. C. KESAVA PILLAI: സർ, ബില്ലിലെ തത്വത്തോടു ഞാൻ യോജിക്കുന്നു. വക്കീൽ ഫീസിനുള്ള സർട്ടിഫിക്കറു് സാധാരണ കൊടുക്കുന്നതു ഫസ്റ്റ്-ാംദിവസമാണു്. എന്നിട്ടു് ഫ ൪-ാംദിവസംതന്നെ കൊടുത്തു എന്നു പറയും. പണം, വരാത്തതുകൊണ്ടു് വക്കീൽ ഗുമസ്തന്റെ അടുക്കൽ കണ്ണു കാണിക്കുകയുംചെയ്യും. ഇക്കായ്യത്തിൽ കള്ളം ഇരുക്കുട്ടരും ചെയ്യുന്നുണ്ടു്. ഫീസ് രജിസ്റ്റർ എന്നൊരു രജിസ്റ്റർ ഉണ്ടു്. വക്കീലായിട്ടും കക്ഷിയായിട്ടും സ്റ്റാമ്പുരജിസ്റ്ററിൽ വലിയ തകരാറുകാണുന്നുള്ളതായി കാണുന്നില്ല. താലൂക്കുകച്ചേരികളിലും അതുപോലെ മറ്റുള്ള ഇടത്തും സ്റ്റാമ്പു രജിസ്റ്റർ ഉള്ളതായി അറിയാം. അതുകൊണ്ടു ഇത്തരം അപേക്ഷകൾക്കു രണ്ടുചക്രം സ്റ്റാമ്പു മുമത്തണമെന്നു പറയുന്നതിൽ വലിയ തെറ്റില്ലെന്നാണു് എനിക്കു തോന്നുന്നതു്.

MR. E. SUBRAMONIA AIYAR: വക്കീലന്മാർ ഫീസ് വാങ്ങാതെ സർട്ടിഫിക്കറു കൊടുക്കുമോ?

MR. T. C. KESAVA PILLAI: ഹൈക്കോടതി വക്കീലന്മാർ അങ്ങനെ ചെയ്കയില്ലായിരിക്കും. എന്നാൽ മുൻസിഫ്കോടതി വക്കീലന്മാർ പലപ്പോഴും അങ്ങനെ ചെയ്യാറുണ്ടു്.

MR. M. R. NARAYANA PILLAI: വക്കീൽഫീസിനു സർട്ടിഫിക്കറു കിട്ടുന്നതിനുവേണ്ടിയാണോ രണ്ടുചക്രം സ്റ്റാമ്പൊട്ടിക്കണമെന്നു പറയുന്നതു്?

MR. T. C. KESAVA PILLAI: വക്കീലിന്റെ രക്ഷയ്ക്കും കക്ഷിയുടെ രക്ഷയ്ക്കും വേണ്ടിയാണു്.

MR. N. RAMAKRISHNAPILLAI: I did not want to intervene in this debate but for the turn the discussion has taken.

PRESIDENT: But is not the matter more or less one of convenience or there is greater danger or greater liability if there is no stamp affixed?

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MR. N. RAMAKRISHNA PILLAI: That is exactly my point. On principle it may not be proper for a representative to invite additional taxation. But in this particular instance for the safety of the client and for the convenience of the public the amendment proposed is good and hence I support it. It has been pointed out that there is no safety even if the stamp is affixed to the petition. I have not come across any case of stamps being purloined when petitions are presented in civil courts or that the head clerk responsible for cancelling the stamp and entering it in the accounts has not done his duty. It is not at all likely that any such malpractice will take place in the courts of law. There is no doubt of the additional safety guaranteed by the filing of stamped petitions. The additional imposition is, after all, a very small amount. The very smallness of the amount proposed appears to me to be an additional reason for supporting the Amendment Bill.

MR. E. SUBRAMONIA AIYAR: Suppose a man has to file thirty applications for a copy. Will it not be imposing a heavy burden of taxation on him?

MR. PUTHUPALLI S. KRISHNA PILLAI: Why should a man put thirty applications for a copy?

MR. N. RAMAKRISHNA PILLAI: It is not intended that on every application a party has to file in court, a court fee stamp has to be affixed. The proposal is to affix a two chuckrams stamp on an application for a copy of the judgment or the decree only. I am therefore in favour of the proposal to impose this small fee.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, I also rise to oppose the principle involved in the proposed amendment. Amendments are sought to be effected in two sections of the existing Court Fee Act, *viz.*, one is to Clause (*e*) of Section 16 and the other to Schedule II of the Act. With regard to the first amendment I do not propose to add anything more than what has already been advanced by my learned friend Mr. E. Subramonia Aiyar. With regard to the second amendment the reason alleged for the amendment in the statement of objects and reasons is this:—

> "Complaints by applicants are also not infrequent that such applications are not properly posted in the registers kept for the purpose, but such allegations are never substantiated. After careful consideration of the whole question Government have come to the conclusion that it would be in public interest if a small fee of 2 chuckrams is levied in respect of such applications also."

Sir, this is a very serious position. If Government cannot prevent such a danger or inconvenience by other means or in other words, if the Government are helpless to prevent such a state of affairs by any other means, we are prepared to agree to this course as a last resort. But there is no statement made in the statement of objects and reasons that other attempts have already been made in this direction for improvement. Then another ground on which I oppose this amendment is this Sir, a reading of Section 13 of the existing Court Fee Act shows that there are thirteen classes of documents or applications which are exempted from the payment of court fees and some of them

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are applications by Government, namely, requisitions for copies of judgment and decrees, or orders or records in suits or proceedings, or objections to attachment of property in execution of decree when they are made by or on behalf of Government. Sir, no amendment is sought to be made with regard to these provisions which relate to the applications filed by Government. This shows that so far as Government are concerned everything is safe and no danger is apprehended and no difficulty is felt. But the whole difficulty arises with regard to applications filed by private individuals. This shows unmistakably that two kinds of treatment are accorded by the public servants or employees in the Judicial Department, one sort of treatment to the non-official litigant public and another sort of treatment to Government matters. Sir, this is a very objectionable feature and I would strongly protest against such a course of conduct on the part of the public servants. If there was an attempt on the part of Government to make the necessary amendments with regard to all classes of documents or applications mentioned in Section 13 of the present Act, there would have been some justification or there would have been some kind of uniformity of policy so far as such applications are concerned. The present amendment cannot be accepted any way.

MR. N. RAMAKRISHNA PILLAI: അവശ്യമില്ലാതെതന്നെ രണ്ടു ചക്രം സ്റ്റാമ്പു് ഒട്ടിച്ച അപേക്ഷകൾ കക്ഷിക്കു കൊടുക്കാറില്ലെ?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: എനിക്കു് അതിനെപ്പറ്റി നല്ല അറിവില്ല.

MR. PUTHUPALLI S. KRISHNA PILLAI: Has the honourable member ever filed a vakil's fee certificate with a two chuckrams stamp?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I have never filed a vakil's fee certificate with a two chuckrams stamp and there was no instance of a vakil's fee certificate missing for the last twenty six years of my professional career.

MR. N. RAMAKRISHNA PILLAI: രണ്ടുചക്രം സ്റ്റാമ്പു ഒട്ടിച്ച കൊടുക്കുന്നതിൽ ആക്ഷേപമുള്ളതായി മെമ്പർക്കു് അറിയാമോ?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: അതിനെപ്പറ്റി ഇവിടെ ഉണ്ടായിട്ടുള്ള പ്രസ്താവനകളിൽനിന്നുള്ള അറിവു മാത്രമെ എനിക്കുള്ളു.

Sir, I cannot therefore subscribe to the views expressed here that the Amendment Bill is intended to benefit the ordinary litigant public. I would therefore strongly oppose the general principle contained in the Bill under discussion.

MR. PUTHUPALLI S. KRISHNA PILLAI: If a vakil's fee certificate is made liable to be affixed with a two chuckrams stamp, will it not be possible to prevent fraud being practised?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: If all other methods fail in this direction, that will be the last attempt to be tried.

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MR. KOTTALIL P. ABRAHAM: Supposing it is filed before the Sheristadar or the Head Clerk and when it is taken by the peon for registering, the stamp is taken out by the peon, in such cases can the trouble be overcome?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: It is only imaginary.

MR. E. P. VARGHESE: Does not the person receiving the paper cancel the stamp?

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Yes, the head ministerial officer cancels the stamp.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I am really glad to say that the discussion has been most instructive. It is a matter on which much can be said on both sides and the honourable members seem to be divided in their opinions I have taken only one view and so far as I am concerned, Sir, the position is this. Of course one honourable member stated that for various reasons which I had not stated, he supports the Bill. I am indebted to him. Another member stated that I could have given a fuller statement of objects and reasons. To that extent I plead guilty. It is true that I did not state everything in regard to the vakil's fee certificate. In regard to that there are two points which might be emphasised. No doubt it is only a certificate and as a certificate it is not liable to be affixed with any stamp. Of course, that is the law in British India and that has been the law here. But we are forced to make a departure in this respect. Several members of the Bar for various reasons choose to affix a two chuckrams stamp on every certificate filed by them in contested cases.

MR. C. JEBAMONY NADAR: May I know the courts in which such a thing is being practised?

MR. PUTHUPALLI S. KRISHNA PILLAI: Munsiff's courts, District courts and the High Court. These are the three classes of courts of which I have experience.

MR. C. JEBAMONY NADAR: May I know the names of the particular courts?

MR. PUTHUPALLI S. KRISHNA PILLAI: Personally I had experience in four courts. I think the honourable member is asking about my personal experience. Those courts are the munsiff's courts and the district courts in Quilon and the district courts and the High Court in Trivandrum.

MR. C. JEBAMONY NADAR: I am not asking about the honourable member's personal experience. I am asking the honourable member with reference to the statement of objects and reasons stated here.

MR. PUTHUPALLI S. KRISHNA PILLAI: In all matters concerning the judiciary Government always act on the recommendations of the High Court and the honourable the High Court have made certain recommendations on this matter. Every member of the profession knows that a missing certificate is often accounted for by the latches of the advocate who is expected to file it or

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of the court clerk who is to keep it. As pointed out by Mr. T. C. Kesava Pillai, it may be that the vakil has forgotten to file the certificate on the fifteenth day. In such cases what the vakil does is to throw the blame on the court clerk. It may be that it is a very keenly contested case and one party for the purpose of over-reaching the other may probably be able to influence one clerk or other for the purpose of suppressing it. I do not say that such cases are not probable.

MR. C. JEBAMONY NADAR: Has Government taken any action in such cases?

MR. PUTHUPALLI S. KRISHNA PILLAI: The difficulty in such cases is that it is not possible to lay hold on the person that is responsible. In the statement of objects and reasons I do not say what the courts have said and I take the blame for that myself. If a vakil does not file the certificate in time, he tries to throw the blame on the court clerk. Where is the register and where is the entry in it, if the certificate was filed? These are the counter-allegations. In a case in which there were strict orders to make a thorough enquiry into the matter, it was found to be a waste of time. What is there to show that the vakils themselves filed the certificates? They do not keep any register for the purpose. Again, it is not the vakil himself who takes these matters to court. It is his clerk that does it and very often the vakil relies upon his clerk. That clerk may be a veritable rogue but still to the vakil he is the most honest man.

MR. C. JEBAMONY NADAR: Is it not the practice in such cases to put in an application for excusing the delay and admitting the certificate?

MR. PUTHUPALLI S. KRISHNA PILLAI: I was coming to it. What does such an application cost to the party? An application for excusing delay must be affixed with a half-rupee stamp. Notice will be ordered to be served on the other party and there will be a few days' argument for which the vakil will have to be paid extra. Is this the way in which the honourable members of the profession want the thing to be done?

MR. E. SUBRAMONIA AIYAR: Can the honourable member enlighten us in regard to the number of complaints?

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I am not now in a position to say the exact number, but the number is certainly not very small. The difficulty is in finding out who is speaking falsehood, whether it is the vakil's clerk or the court clerk.

MR. E. SUBRAMONIA AIYAR: How many complaints have arisen?

MR. PUTHUPALLI S. KRISHNA PILLAI: Ever so many. We have also to take into account those cases in which the parties preferred to make no complaint.

MR. K. P. KOCHUKORA THARAKAN: അങ്ങിനെയുള്ള പരാതികൾ അഞ്ചു ശതമാനത്തിൽ കൂടുതൽ വരുമോ?

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MR. PUTHUPALLI S. KRISHNA PILLAI: അങ്ങിനെ ഉണ്ടാകുന്ന കേസുകൾ അഞ്ചുശതമാനം അല്ല ഒരു ശതമാനമായാലും നാം അതു് ഗൗരവമായി വിചാരിക്കണമെന്നാണു് ഞാൻ പറയുന്നതു്.

MR. N. RAMAKRISHNA PILLAI: Is not the complaint very prominent?

MR. PUTHUPALLI S. KRISHNA PILLAI: Yes, Sir. So far as I can say, It is and every member of the profession will admit that it is. That has been my experience. Why should we hide facts? My honourable friend Mr. T. P. Velayudhan Pillai said that till now even though he has been at the Bar for twenty six years, he has had no occasion to miss any certificate.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Sir, a word of personal explanation. I can assure my friend that for the last twenty six years, there was not a single instance of this kind in the Chengannur court.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I am very glad to hear that in Chengannur we get a better class of court clerks and vakils' clerks. Some places are like that and we should certainly feel thankful that there is at least one place in Travancore where everything in the court is beyond reproach.

MR. K. R. NARAYANAN: വക്കീൽ ഫീസ് സർട്ടിഫിക്കറ്റു് അപേക്ഷക്കു സ്റ്റാമ്പു് ഒട്ടിക്കണമെന്നുള്ള വ്യവസ്ഥ ബ്രിട്ടീഷ് ഇൻഡ്യയിലൊ മറ്റു നാട്ടുരാജ്യങ്ങളിലൊ ഉണ്ടോ?

MR. PUTHUPALLI S. KRISHNA PILLAI: ഇല്ല എന്നു ഞാൻ പറഞ്ഞു കഴിഞ്ഞു ഈ വ്യവസ്ഥ പുതിയതായിട്ടു് ഇവിടെ പ്രയോഗിച്ചു നോക്കുകയാണു്.

MR. K. R. NARAYANAN: ഇപ്പോഴും അത്യാവശ്യമുള്ളവർക്കു് സ്റ്റാമ്പു് ഒട്ടിച്ചു കൊടുക്കുന്നതിനു എന്തെങ്കിലും നിയമതടസ്സം ഉണ്ടോ?

MR. PUTHUPALLI S. KRISHNA PILLAI: തടസ്സമൊന്നും ഇല്ല. എന്നാൽ ഒരാൾ കൊടുക്കുകയും മറ്റൊരാൾ കൊടുക്കാതിരിക്കുകയും എന്തിനു ചെയ്യുന്നു?

MR. K. R. NARAYANAN: സംശയമുള്ളവർ കൊടുക്കട്ടെ, അല്ലാത്തവർ കൊടുക്കണ്ട എന്നു വിചാരിച്ചാൽ പോരെ?

MR. PUTHUPALLI S. KRISHNA PILLAI: സംശയമില്ലാത്തവരെ രക്ഷിക്കാനാണല്ലോ നാം നോക്കേണ്ടതു്. രണ്ടു ചക്രം സ്റ്റാമ്പു ഒട്ടിച്ചുപേക്ഷിക്കണം എന്നുള്ള ഒരു ചെറുതലവക്കീലിനു് ഉണ്ടാകുന്നപക്ഷം കക്ഷിക്കു അതുകൊണ്ടു് ഗുണം ലഭിക്കും എന്നു കണ്ടാൽ ഇതിൽ എന്താണു അക്ഷേപം? പൊതുജനപ്രതിനിധികൾ ഇതിനെ എതിർക്കുന്നതാണു് എനിക്കു മനസ്സിലാക്കാൻ കഴിയാത്തതു.

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MR. K. P. KOCHUKORA THARAKAN : വക്കീലിനെ നോട്ട് എഴുതി കൊടുത്തുകൊണ്ടല്ലേ സർട്ടിഫിക്കറ് കൊടുക്കുന്നതു ?

MR. PUTHUPALLI S. KRISHNA PILLAI : ആയിരിക്കാം.

MR. K. R. NARAYANAN : വക്കീലന്മാരെക്കൊണ്ട് കക്ഷികൾക്ക് ഉണ്ടായിട്ടുള്ള ബുദ്ധിമുട്ടുകളെ സംബന്ധിച്ച് എന്തെങ്കിലും പരാതികൾ കിട്ടിയിട്ടുണ്ടോ?

MR. PUTHUPALLI S. KRISHNAPILLAI : ഇവിടെ കിട്ടിയിട്ടില്ല. എന്നാൽ പല വക്കീൽ അസോസ്യേഷനുകളിലും ഇത്തരം പരാതികൾ ലഭിച്ചിട്ടുണ്ട്.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member whether there was any instance in which an application made by Government for copies of judgment or decrees was missing ?

MR. PUTHUPALLI S. KRISHNA PILLAI: No. Whenever any matter is sent out, it is immediately entered in the despatch register and a notice is made and the officer in charge initials it. Is there any instance in which such a record is maintained by a vakil ? No. But in the case of Government it is different and certain forms and formalities have to be observed and that is the guarantee. When an application is filed by a Government pleader, no person can say that it has not been filed because in the first place there is a register that is maintained for the purpose and it would be as good as any other register or record.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know from the honourable member whether it would suffice if a circular is issued by the honourable the High Court to all subordinate courts asking the vakils practising in those courts to maintaining a register for filing vakil fee certificates ?

MR. PUTHUPALLI S. KRISHNA PILLAI: That will not be sufficient protection. There are vakils and vakils and my friend is thinking only of the Chengannur vakil or the Chengannur vakil's clerk. We must remember that there are at least thirty-nine other courts in Travancore.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I refer to all the courts in Travancore.

MR. PUTHUPALLI S. KRISHNA PILLAI: I can read out half a dozen rules from the Civil Courts Guide which direct that a vakil practising in a Civil Court shall maintain a register of all cases in which he appears and get an endorsement from the presiding judges in all such cases. For nineteen years I had been a lawyer but I had not been able to do that.

MR. K. R. NARAYANAN : വക്കീലന്മാരെക്കൊണ്ടു കക്ഷികൾക്കുണ്ടായിട്ടുള്ള ബുദ്ധിമുട്ടുകളെ സംബന്ധിച്ച് എന്തെങ്കിലും പരാതികൾ കിട്ടിയിട്ടുണ്ടോ?

MR. PUTHUPALLI S. KRISHNA PILLAI : ഇവിടെ കിട്ടിയിട്ടില്ല. എന്നാൽ പല വക്കീൽ അസോസ്യേഷനുകളിലും ഇത്തരം പരാതികൾ ലഭിച്ചിട്ടുണ്ട്.

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MR. PULIYOOR T. P. VELAYUDHAN PILLAI: May I know which Association has done that?

MR. C. JEBAMONY NADAR: Is there any reference about it in the Administration Report?

MR. PUTHUPALLI S. KRISHNA PILLAI: So far as the public are concerned I do not think there is much complaint. So far as the Advocates are concerned they seem to think that it is a fresh levy on their purse. That seems to be the misunderstanding. But a good many entertain the feeling that it will be to the ultimate advantage of the people that such a small levy is made. Mr. Sivathanu Pillai asked me whether Panchayat Court Judges are not taking away the stamps. We are not now dealing with the question of the Panchayat Courts. We are dealing with the Civil Courts. These applications are filed before the head ministerial Officer. The rule says that immediately he receives an application he should cancel the stamp and make a simultaneous entry in the register kept for the purpose, so that a minute after the application is filed before the Head Clerk you find a record of the filing. There will not be any possibility of any complaint by any party or any shoving of responsibility by one upon the other. The object behind this bill is not taxation. The honourable member seems to be under the impression that the Government are for taxation. It is not so. We want to make the judicial administration as thorough and as complete as possible.

MR. K. P. KOCHUKORA THARAKAN: അങ്ങനെയാണെങ്കിൽ രണ്ടുചക്രം സ്റ്റാമ്പിനുപകരം രണ്ടുകാശു സ്റ്റാമ്പു് എർപ്പെടുത്തിയാൽ പോരെ?

MR. PUHUPALLI S. KRISHNA PILLAI: അപ്പോൾ സ്റ്റാമ്പ് റദ്ദുചെയ്യൽ തന്നെ മാറേണ്ടിവരും. അതു പ്രയാസമാണ്.

We do not say that the fee shall be half a rupee for each application. It is only to remove the longstanding complaints that this bill has been brought forward. As I said, there are several Advocates who affix two chuckrams stamps on some of the certificates filed by them. Though it is not done in all cases, in important cases where the value of the suit is high, the stamp is affixed. There is no doubt about that. As regards the other question of amending the Court Fees Act, I have sufficiently explained the object. Mr. Subramonia Aiyar said that the small cause suit is the poor man's suit. I beg to differ. It is the hundi merchants, the bankers and the traders that have a large number of small cause suits. As a matter of fact it is not the poor man who is benefited. A poor man may perhaps have one or two suits in the course of his life time.

MR. M. SIVATHANU PILLAI: Is he not sued very often?

MR. PUTHUPALLI S KRISHNA PILLAI: I doubt.

MR. K. P. ABRAHAM: Is not the poor man to suffer?

MR. PUTHUPALLI S. KRISHNA PILLAI: If he wins he will get his costs.

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MR. C. JEBAMONY NADAR: Will the honourable member at least accept the suggestion of reducing the court fees?

MR. PUTHUPALLI S. KRISHNA PILLAI: I accept that it is a reasonable proposition. But I cannot bring it forward now. If the honourable member brings forward a bill we can consider it.

MR. M. SIVATHANU PILLAI: Will the honourable member assure the House that he will not oppose it?

MR. PUTHUPALLI S. KRISHNA PILLAI: I cannot enter into any such undertaking.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Can such a bill be brought forward without the sanction of Government?

MR. PUTHUPALLI S. KRISHNA PILLAI: All those questions will arise only when a bill is brought forward. Now we have no such bill before us.

My submission is that there can be no objection in accepting the principle of the bill and then referring it to a select committee.

MR. M. SIVATHANU PILLAI: I do not think the opposition has to be taken into consideration because there is no opposition.

RAJYASEVAPRAVINA G. PARAMESWARAN PILLAI: Mr. President, Sir, some honourable members on the other side seem to entertain a misapprehension in regard to the scope and object of the Bill now under discussion. The honourable member, Mr. Subramonia Aiyar, was rather apprehensive that the poor litigant would have to bear a heavy burden if he is asked to affix court fee stamps to the value of two chuckrams to applications for copies of judgment or orders in non-appealable cases. But as was pointed out by him, Government do not intend to levy any court fee on applications for adjournments or interlocutary applications filed in the course of proceedings. The small litigant will be really affected only if the Government were to impose the obligation of payment of court fee on such applications. When once a judgment or order is passed it is to the interest of the litigant himself that he gets a copy in time in order to seek his remedy in revision, or review or other appropriate proceedings. A period of limitation is prescribed for such proceedings. I may say for the information of honourable members, who are not perhaps advocates, that complaints have very often been made that applications which have been made in time were not forthcoming. On many occasions applications for excusing delay have been put in before the revisional courts on the ground above stated and action had to be taken against such complaints. In the interests of the very litigants, in whose behalf my honourable friend Mr. Subromonia Aiyar pleaded so strongly before this House, I would submit that it is necessary that we accept the present proposal which is only, if I may say so, of a character intended more to safeguard the litigants' interests than to derive any revenue.

It has been pointed out here that so far as Government are concerned certain exceptions have been made. In the first place, I may with great respect, point out that there is no necessity for any such procedure being adopted in the case of proceedings to which Government

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[Rajyasevapravina G. Parameswaran Pillai.]

are a party. I may also say that in regard to the vakils fee certificates many cases have come to my notice both as a vakil and as a Judge when advocates do take particular care to affix the two chuckrams stamps on applications filed before courts.

MR. E. SUBRAMONIA AIYAR: As an advocate, has the honourable member ever affixed two chuckrams stamps in such documents?

RAJYASEVAPRAVINA G. PARAMESWARAN PILLAI: Yes, I may have done so. Whatever that be, it has come to my notice that vakils have been following that practice. Further I may say that applications for excusing delay in fixing vakil fee certificates have been stated to have been suppressed. My own impression is that this is a matter which does not admit of so much controversy for the simple reason that the idea behind the Government is not so much to impose a fresh burden on the poor man as to forward his own interests. For these reasons I support the principle of the Bill introduced by the Legal Remembrancer.

MR. KOTTALIL P. ABRAHAM: May I know, who will pay for the stamp? Is it the advocate or the client?

RAJYASEVAPRAVINA G. PARAMESWARAN PILLAI: The person benefited thereby will naturally pay for it.

PRESIDENT: What is the Legal Remembrancer's opinion on the bill?

MR. PUTHUPALLI S. KRISHNA PILLAI: The bill may be read in the Assembly. If that motion is adopted, I will move the motion for referring the bill to a select committee.

PRESIDENT: The question before the House is that the Travancore Court Fees Act (Amendment) Bill be read in the Assembly.

The motion was put and carried.

The Secretary read the title of the Bill.

"THE TRAVANCORE COURT FEES ACT (AMENDMENT) BILL".

MR. PUTHUPALLI S. KRISHNA PILLAI: I beg to move that the Travancore Court Fees Act (Amendment) Bill may be referred to a select committee consisting of the following members:—

Messrs. S. Chattanatha Karayalar,
K. C. Karunakaran,
T. C. Kesava Pillai,
K. P. Kochukora Tharakan,
A. K. Kumaran Vaidyan,
P. Kunjukrishnan,
P. V. Mathai Chemparathy,
P. S. Mahomed,
M. R. Narayana Pillai,
K. R. Narayanan,
D. C. Joseph,
N. Ramakrishna Pillai,
T. P. Velayudhan Pillai, and
Puthupalli S. Krishna Pillai.

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MR. A. LEKSHMINARAYANA AIYAR: I second it.

The motion was put and carried. The Bill was referred to the Select Committee.

THE VILLAGE PANCHAYAT COURTS ACT (AMENDMENT) BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: I rise to introduce the Panchayat Courts Act (Amendment) Bill and beg to move that the Bill be read in the Assembly. I have already explained the need for such a bill in connection with the other Bill just now referred to a select committee. This is only a consequential amendment arising from the introduction of the other Bill. I move that the Bill be read in the Assembly.

The question that the Bill be read in the Assembly was put and carried.

The Secretary read the title of the Bill.

"THE TRAVANCORE VILLAGE PANCHAYAT COURTS ACT (AMENDMENT) BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: I beg to move that the Bill may be referred to the Select Committee composed of the same members as on the previous Bill.

MR. A. LEKSHMINARAYANA AIYAR: I second it.

The motion was put and carried. The Bill was referred to the Select Committee.

THE TRAVANCORE INCOME TAX (AMENDMENT) BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir I rise to introduce the Travancore Income Tax (Amendment) Bill and beg to move that the Bill be read in the Assembly. It is one of the shortest bills ever placed before this House. From the statement of objects and reasons the honourable members may think that I have taken very great pains to explain such a short bill. At present income from agricultural operations on land is altogether free from income tax irrespective of whether such land has been assessed or not to Sircar tax. In British India agricultural income is exempt from income tax only if it arises from land assessed to Government revenue. One reason why such exemption is made is due to the fact that land tax is based on the income from such land. In one sense therefore the income from such lands is assessed to tax and it may be double tax if a further levy is made under the Income Tax Act. Such a plea cannot be available in respect of land on which no land tax is levied. It is the duty of every person to contribute something to the general revenues of the State for the protection the State affords him. It ought not to be understood that the income from

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